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September 2, 2005

VIA HAND DELIVERY & E-FILE

The Honorable Joseph J. Farnan, Jr.
United States District Court for the
District of Delaware
844 North King Street
Lock Box 27
Wilmington, DE 19801

**RE: Cathy D. Brooks-McCollum v. Emerald Ridge Service Corporation
Board of Directors, et al.
C.A. No. 04-0703 (JJF)**

Dear Judge Farnan:

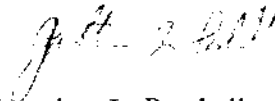
I represent the defendants other than Mr. Kafader and Ferry Joseph & Pearce. I write to respond to plaintiff's motion for reargument (D.I. 61) of the Court's August 25, 2005 order (D.I. 60) denying various motions, including plaintiff's "Motion to Correct" (D.I. 54) and her "Corrective Motion" (D.I. 52). Specifically, plaintiff appears to seek reargument of that part of the Court's decision that declined to alter the caption to make Emerald Ridge Service Corporation a plaintiff.

This Court has held: "Motions for reargument or reconsideration should be granted sparingly and may not be used to rehash arguments which have already been briefed by the parties and decided by the Court." Ciena Corp. v. Corvis Corp., 352 F.Supp. 526, 527 (D. Del. 2005). Plaintiff does not dispute that her complaint raises derivative claims belonging to the corporation – indeed "derivative" appears in both the as-filed caption and the proposed modified caption. *See* D.I. 1, 52 & 54. Defendants demonstrated in the briefing on the motions that under Delaware law the corporation is a nominal defendant in a derivative action. D.I. 55 at 3 n.1. The Court so held. August 25 Order (D.I. 60) at 2, *citing* Maldonado v. Flynn, 413 A.2d 1251, 1255 (Del. Ch. 1980), *rev'd on other grounds*, Zapata Corp. v. Maldonado, 430 A.2d 779 (Del. 1981).

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Plaintiff cites no authority to contradict Maldonado. The motion is simply a rehash of arguments previously made by plaintiff and rejected by the Court. Accordingly, the motion should be denied.

Respectfully yours,

A handwritten signature in black ink, appearing to read "J. L. Parshall", written in a cursive style.

Jonathan L. Parshall

Cc: Clerk of the Court (by e-file)
Cathy D. Brooks-McCollum (by mail)
Robert K. Pearce, Esq. (via e-file)